

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Nathan Dante Young,)	Case No. 9:21-cv-00950-DCC
)	
Plaintiff,)	
)	
v.)	ORDER
)	
C. Bufkin, M. Wissman, T. Graves,)	
Hitchman, X. Hall,)	
)	
Defendant.)	
_____)	

This matter is before the Court upon Plaintiff's claims for violations of his civil rights. ECF Nos. 1, 51. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Molly H. Cherry for pre-trial proceedings and a Report and Recommendation ("Report"). On January 12, 2022, Defendants filed a Motion to Dismiss or, in the alternative, for Summary Judgment. ECF No. 58. On January 14, 2022, this Court issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir.1975), advising Plaintiff of the summary judgment/dismissal procedure and the possible consequences if he failed to respond adequately. ECF No. 59. Plaintiff filed a document liberally construed as a Response in Opposition, a Motion for Reconsideration, and Motion for Summary Judgment. ECF No. 61. On May 17, 2022, the Magistrate Judge issued an Order and Report denying Plaintiff's request for reconsideration, recommending that Defendants' Motion to Dismiss be granted and that the action be dismissed without prejudice for failure to exhaust

administrative remedies, and recommending that Plaintiff's Motion for Summary Judgment be denied. ECF No. 62. The Magistrate Judge advised the Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. He did not file objections to the Report, and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the recommendation of the Magistrate Judge. Accordingly, to the extent Motion can be construed as a Motion for Summary Judgment [61], it is **DENIED**. Defendant's Motion to Dismiss [58] is

GRANTED and this action is dismissed without prejudice for failure to exhaust administrative remedies.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

June 30, 2022
Spartanburg, South Carolina